DAVID W. TYRA, State Bar No. 116218 dtyra@kmtg.com TERILYNN DIEPENBROCK, State Bar No. 129075 tdiepenbrock@kmtg.com ALEC D. TYRA, State Bar No. 339922 atyra@kmtg.com KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD 1331 Garden Hwy, 2nd Floor 5 Sacramento, California 95833 Telephone: (916) 321-4500 Facsimile: (916) 321-4555 6 7 Attorneys for Defendants City of Elk Grove, Bobby Davis, and Jonathan P. Hobbs 8 9 10 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA 11 12 13 ARNOLD ABRERA, Case No. 2:22-CV-01162-JAM-DB 14 Plaintiff, **DEFENDANTS BOBBY DAVIS'.** JONATHAN P. HOBBS' AND CITY OF ELK GROVE'S NOTICE OF JOINDER 15 v. AND JOINDER IN DEFENDANTS 16 GAVIN NEWSOM, in his official capacity as COUNTY OF SACRAMENTO AND ANNE Governor of the State of California; MARIE SCHUBERT'S MOTION TO 17 ROB BONTA, in his official capacity as **DISMISS PLAINTIFF'S FIRST** Attorney General of the State of California; AMENDED COMPLAINT 18 ANNE MARIE SCHUBERT, in her official capacity as County of Sacramento Date: January 9, 2024 District Attorney; COUNTY OF Time: 1:30 p.m. SACRAMENTO; BOBBY DAVIS, in his Crtrm.: 20 official capacity as Chief of the Elk Grove Police Department; JONATHAN P. 21 HOBBS, in his official capacity as the City Attorney for the City of Elk Grove; CITY OF Trial Date: N/A 22 ELK GROVE, 23 Defendants. 24 25 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE THAT Defendants Bobby Davis, Jonathan P. Hobbs and City 26 27 of Elk Grove ("Elk Grove Defendants") hereby join in the motion of Defendants County of Sacramento and Anne Marie Schubert's ("County of Sacramento Defendants") motion to dismiss 28

DEFS B. DAVIS, J. HOBBS AND CITY OF ELK GROVE'S NOTICE OF JOINDER AND JOINDER IN DEFS COUNTY OF SACRAMENTO AND ANNE MARIE SCHUBERT'S MOTION TO DISMISS PLAINTIFF'S FAC

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1	Plaintiff's First Amended Complaint based upon Federal Rules of Civil Procedure, Rules 12(b)(1)
2	12(b)(6), and 12(f) and will request the Court at the hearing scheduled on this motion for January
3	9, 2024 at 1:30 p.m., or as soon thereafter as the matter may be heard in Courtroom 6 of the above
4	entitled Court, for the same relief, i.e., dismissal based upon the above-cited Federal Rules of Civi
5	Procedure.
6	In support of this joinder, the Elk Grove Defendants adopt all arguments, facts, and points
7	and authorities submitted by County of Sacramento Defendants as though the Elk Grove
8	Defendants had set forth all such matters in full.

I. <u>INTRODUCTION</u>

Plaintiff asserts twelve causes of action against all defendants across 506 paragraphs of allegations. Plaintiff asserts his first, second, seventh, eighth, ninth, tenth, eleventh, and twelfth causes against the County of Sacramento Defendants to which the County of Sacramento Defendants move to dismiss under Federal Rules of Procedure 12(b)(1) and 12(b)(6). The Elk Grove Defendants are only named in Plaintiff's first, second, seventh, eleventh, and twelfth.

II. <u>ELK GROVE DEFENDANT'S JOINDER</u>

A defendant's joinder in a co-defendant's motion saves judicial resources and prevents redundant arguments and needless duplicative filings. The joinder is treated as though the joining party had filed its own motion as to the arguments "joined." *See e.g. Aetna Life Ins. Co. v. Alla Medical Services, Inc.*, 855 F.2d 1470, 1472, 1474-1475 (9th Cir. 1988).

The Elk Grove Defendants clarify, for the purposes, of this joinder, that Plaintiff has not alleged the same causes of action against the Elk Grove Defendants as he has alleged against the County of Sacramento Defendants. Therefore, the following arguments made by the County of Sacramento Defendants in their moving papers apply to the Elk Grove Defendants with equal force and effect and are hereby adopted by the Elk Grove Defendants in support of this joinder:

III.A – The Court should decline jurisdiction under *Penn Gen. Casualty Co. v. Pennsylvania*, 294 U.S. 189, 195 (1935).

III.B – The Court should abstain from these proceedings under *Younger v. Harris*, 401 U.S. 37, 43-45 (1971).

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1	III.C – Plaintiff's claims are not ripe for judicial determination.
2	III.D – Plaintiff lacks Article III standing.
3	III.E – Plaintiff's claims against local municipalities are tantamount to action against the
4	State of California, to which <i>Monell v. Dep't of Soc. Servs.</i> , 436 U.S. 658, 690 (1978) does not apply.
5	III.H – Plaintiff's eleventh and twelfth causes of action should be dismissed as moot.
6	III.I – Plaintiff does not have standing to assert injunctive relief.
7	The Following arguments do not apply and/or the Elk Grove Defendants do not join in
8	them for purposes of this joinder:
9	III.F – Plaintiff's tenth claim for damages is barred by Eleventh Amendment Immunity.
0	III.G – Declaratory relief against the District Attorney is not appropriate under Ex parte
1	Young, 209 U.S. 123 (1908).
2	III. <u>CONCLUSION</u>
3	The Elk Grove Defendants join in the above referenced arguments and respectfully request
4	that the Court dismiss Plaintiff's first, second, seventh, eleventh, and twelfth causes of action for
5	the reasons outlined in County of Sacramento Defendants' motion dismiss pursuant to Federal
6	Rules of Procedure 12(b)(1), 12(b)(6), and 12(f).
7	DATED: November 14, 2023 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
8	A Professional Corporation
9	
20	By: /s/ Alec D. Tyra David W. Tyra
21	Terilynn Diepenbrock
22	Alec D. Tyra Attorneys for Defendants City of Elk Grove,
23	Bobby Davis, and Jonathan P. Hobbs
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